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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,888	11/13/2003	Prabodh P. Parekh	IFF-71	7765
48080	7590	01/22/2009		
INTERNATIONAL FLAVORS & FRAGRANCES INC.				
521 WEST 57TH ST				
NEW YORK, NY 10019				
EXAMINER				
GULLEDGE, BRIAN M				
ART UNIT		PAPER NUMBER		
1619				
MAIL DATE		DELIVERY MODE		
01/22/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/706,888

**Applicant(s)**

PAREKH ET AL.

**Examiner**

Brian Guldge

**Art Unit**

1619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 11-16 and 18-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-16 and 18-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Change of Examiner***

This application has been reassigned from Shahrzad Spieler to Brian Gulledge for the remainder of its prosecution. Applicant is advised that future communications should be directed to Brian Gulledge, who can be contacted at 571-270-5756, Monday–Thursday from 6:00 am until 3:00 pm.

***Previous Rejections***

Applicants' arguments, filed September 11, 2008, have been fully considered. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set presently being applied to the instant application.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 1-9, 11-16, and 18-21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over O'Connor (US Patent 6,432,891) in view of Triplett et al. (US Patent Application Publication 2003/0199402).** The declaration filed on September 11, 2008 under 37 CFR 1.131 has been considered but is ineffective to overcome the filing date of the Triplett et al. reference. Only one of seven inventors (Richard Boden) has signed the declaration. An affidavit or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or

claims under rejection. For example, one of two joint inventors is accepted where it is shown that one of the joint inventors is the sole inventor of the claim or claims under rejection. See MPEP 715.04. As not all the inventor signed this declaration, and it is not shown that Richard Boden is the sole inventor of the claimed subject matter, the declaration is deficient. However, *in arguendo*, if the requisite signatures or statement were provided, the claimed subject matter of some of the claims, such as instant claims 2-8, would antedate the filing date of the Tripplett et al. reference.

**Claims 1-9, 11-16, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Connor (US Patent 6,432,891) in view of Rohe et al. (US Patent 4,968,496).** O'Connor teaches a method of counteracting a malodor in a solid or liquid, soap or detergent caused by a compound. The method comprises introducing into the solid or liquid, soap or detergent an effective malodor counteracting amount of a malodor counteracting compound selected from the group consisting of 1-cyclohexyl-ethyl-butyrate, 1-cyclohexyl-ethyl-acetate, 1-cyclohexyl-ethanol, 4-isopropyl-cyclohexyl-propionate, and phenoxyacetic acid 2-hydroxy-ethyl ester. The perceived total odor intensity in the solid or liquid, soap or detergent is reduced and the perceived malodor intensity in the solid or liquid, soap or detergent is substantially eliminated. The malodor counteracting compositions may be used in a wide variety of solid or liquid, soaps or detergents (abstract, lines 1-17).

O'Connor further teaches the method comprises introducing into the solid or liquid, soap or detergent an effective malodor counteracting amount of a mixture comprising from about 0.5% to about 10% of a solution of ambroxan in dipropylene glycol, about 9.5% of boisvelone,

about 10% of lylal, about 30% of phenyl propyl alcohol, about 10% of cyclohexyl-ethyl-acetate, and about 10% of 4-isopropyl-cyclohexyl-propionate (column 6, lines 57-65, claim 19, and examples). In the examples taught by O'Connor, the examiner points out that the VELIX products used are the same mixtures of cyclohexyl compounds used in instant application. What is lacking in O'Connor is the teaching of zinc ricinoleate in the claimed composition.

Rohe et al. teaches deodorant compositions that comprise zinc ricinoleate (column 1, lines 9-20) and that the compound is used in from about 2 to 10 wt% (claim 1). Examples of malodorous compounds that will be bound include mercaptans, thioethers, amines, and aldehydes (column 1, lines 52-55).

Therefore, it would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to have combined the composition taught by O'Conner, used to counteract malodor, with the composition taught by Rohe et al., also used to counteract malodor. Generally, it is *prima facie* obvious to combine two compositions, each of which is taught by the prior art to be useful for same purpose, in order to form a third composition to be used for the very same purpose. The idea for combining them flows logically from their having been individually taught in the prior art. See MPEP 2144.06.

**Claims 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Connor (US Patent 6,432,891) in view of Rohe et al. (US Patent 4,968,496) as applied to claim 1 above, and further in view of Pavlin et al. (US Patent 5,783,657). O'Connor in view of Rohe et al. teaches all of the limitations of instant claims 18 and 21, except for the limitations**

to the stick article that the composition is incorporated into. Rohe et al. does disclose the inclusion of the composition in a stick article (column 1, lines 21-27).

Pavlin et al. teaches an ester-terminated polyamide gel that is useful in formulating personal care products (abstract, lines 1-15). Pavlin et al. further discloses that the gel taught can be used for deodorant/antiperspirants (column 14, lines 34-37), incorporating known materials into the form (column 14, lines 59-67). Pavlin et al. further teaches that the stick composition of the invention has the combination of rheological properties needed to formulate a successful personal care product (column 1, lines 38-44) while also being transparent, a desirable property (column 1, lines 45-55).

Therefore, it would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to have used the stick taught by Pavlin et al. to deliver the deodorant composition taught by O'Conner in view of Rohe et al., as Pavlin et al. teaches that the stick has the properties desired by consumers for personal care products.

### ***Conclusion***

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Gullledge whose telephone number is (571) 270-5756. The examiner can normally be reached on Monday-Thursday 6:00am - 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frederick Krass can be reached on (571) 272-0580. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BMG

/Frederick Krass/  
Supervisory Patent Examiner, Art Unit 1612